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 13 Pacific Telescope Corp., Corey Lee, David Shen, Sylvia
 Shen, Jack Chen, Jean Shen, Joseph Lupica, Dave Anderson,
 14 Laurence Huen

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

16 IN RE TELESCOPES ANTITRUST LITIGATION
 17 THIS DOCUMENT RELATES TO:

18 AURORA ASTRO PRODUCTS, LLC, PIONEER
 CYCLING & FITNESS, LLP; and those similarly
 19 situated,

Plaintiffs,

20 vs.

21 CELESTRON ACQUISITION, LLC, SUZHOU
 SYNTA OPTICAL TECHNOLOGY CO., LTD.,
 22 SYNTA CANADA INT'L ENTERPRISES LTD.,
 SW TECHNOLOGY CORP., OLIVON
 23 MANUFACTURING CO. LTD., OLIVON USA,
 LLC, NANTONG SCHMIDT OPTOELECTRICAL
 24 TECHNOLOGY CO. LTD., NINGBO SUNNY
 ELECTRONIC CO., LTD., PACIFIC TELESCOPE
 25 CORP., COREY LEE, DAVID SHEN, SYLVIA
 SHEN, JACK CHEN, JEAN SHEN, JOSEPH
 26 LUPICA, DAVE ANDERSON, LAURENCE
 HUEN, and DOES 1-50,

27 Defendants.
 28

Case No. 5:20-cv-03642-EJD

Assigned for All Purposes to:
Hon. Edward J. Davila

DEFENDANTS' SUBMISSION RE COURT'S MARCH 14, 2025 ORDER [ECF 733] ON PROPOSED SUMMARY JUDGMENT BRIEFING SCHEDULE AND PRETRIAL SCHEDULE

Hearing

Date: TBD
 Time: TBD
 Crtrm.: 4 (5th Floor)

Compl. Filed: June 1, 2020
 Trial Setting Conference: May 8, 2024

1 All Defendants except Ningbo Sunny Electronic Co. Ltd. (hereinafter “Defendants”) hereby
 2 submit their proposal regarding the briefing schedule and page limits for summary judgment motions, as
 3 well as a proposed pretrial schedule following the Court’s March 14, 2025 Order [ECF 733].

4 **I. INTRODUCTION**

5 Following the Court’s March 14, 2025 Order, counsel for Defendants and Direct Purchaser
 6 Plaintiffs (“DPPs”) met and conferred regarding the proposed page limits and briefing schedule for
 7 motions for summary judgment (“MSJs”) and the proposed pretrial schedule. The parties were unable to
 8 reach agreement on a unified proposal, and therefore Defendants’ counsel proposed that the parties
 9 submit a Joint Statement with each side’s proposals for the Court’s consideration. DPPs’ counsel sent an
 10 email at approximately 12:47 p.m. on March 24, 2025, saying that DPPs believed separate filings were
 11 “more appropriate.”¹ Therefore, Defendants submit this separate statement of Defendants’ positions.

12 **II. DEFENDANTS’ POSITION AND PROPOSALS**

13 **A. Procedural History**

14 Pursuant to the Court’s Amended Scheduling Order issued on December 4, 2024 [ECF No. 664],
 15 the parties were required to file dispositive motions and Daubert motions by March 7, 2025. Defendants
 16 timely filed a total of nine MSJs on behalf of eleven specific moving parties consisting of both entities
 17 and individuals. DPPs filed two Daubert Motions to exclude Defendants’ experts David Kaplan and John
 18 Hayes, Ph.D.

19 On March 14, 2025, the Court ordered the parties to meet and confer on consolidating Defendants’
 20 separate MSJ filings into an omnibus motion and to discuss appropriate page lengths for the briefs. As
 21 Defendants explained at the hearing on March 14, 2025, that while there are certain overlapping
 22 arguments relating to some of the legal issues, each MSJ is based on claims and facts unique to each
 23 moving party warranting a full and fair analysis for each. For the Court’s convenience, Defendants have
 24 prepared a separate chart outlining in summary fashion the distinct factual and legal arguments relating
 25

26 ¹ Defendants subsequently learned that DPPs’ counsel was engaging in *ex parte* communications
 27 with the Courtroom Clerk regarding proposed hearing dates (without copying Defendants’ counsel),
 28 instead of conferring with Defendants’ counsel regarding a proposed hearing date. The Courtroom
 Clerk kindly forwarded these communications to Defendants’ counsel.

1 to each moving defendant. That chart is attached hereto as **Exhibit 1**.

2 As the Court may observe from the number of unique factual and legal issues, Defendants are
 3 substantially concerned that each moving defendant will not have the right to fully and fairly address the
 4 distinct legal and factual issues that are unique to that defendant if the page limits are curtailed to a bare
 5 minimum. Defendants believe that this is the reason for DPPs' separate proposal, which would limit each
 6 of the eleven moving parties to a *mere four pages* of argument in the brief, and an even more prejudicial
 7 and paltry *three pages* of space in the statement of undisputed fact for each moving party. Moreover,
 8 shortening the length of the separate statements, which represents the factual underpinning and the
 9 foundation of an MSJ, was never discussed or proposed by the Court at the March 14 hearing. Defendants
 10 have legitimate concerns that this may violate the due process rights of each moving party. DPPs even
 11 propose to shorten the time frame for Defendants to submit their reply briefs than the parties had agreed
 12 to (and the Court allowed) in the latest scheduling order.

13 Defendants understand that the Court desires more precision in the briefing, but what DPPs are
 14 proposing is cutting off each moving party's rights under Fed.R.Civ.P. 56 and this Court's Standing
 15 Order. Defendants respectfully submit that the Federal Rules of Civil Procedure and this Court's Standing
 16 Order For Civil Cases (effective date of August 31, 2022) allow one MSJ "per party" and therefore entitle
 17 each moving defendant to independently file a complete and separate MSJ. For these reasons, Defendants
 18 respectfully request that the MSJs be reset as filed.

19 However, in light of the Court's March 14, 2025 Order, and without waiving any rights,
 20 Defendants have outlined two proposals below that respond to the Court's Order and significantly
 21 condense the amount of briefing in the MSJs in order to expedite the case schedule and maintain a trial
 22 date in 2025.

23 **B. Defendants' Proposals For Briefing and Page Lengths**

24 In light of the concerns outlined above, Defendants offer the following two alternative proposals:

25 **Proposal 1:**

26 Defendants would be allowed to file two MSJs as follows: a) one MSJ for the seven entity moving
 27 parties, which includes Celestron, Synta Taiwan, Synta Canada, SW Technology, Pacific Telescope,
 28 Olivon Manufacturing and Olivon USA; and b) one MSJ for the four individual moving parties, which

includes Corey Lee, Dave Anderson, Joe Lupica and Jean Shen. Defendants' proposed page limits for the two omnibus MSJs under this proposal is as follows:

	Omnibus MSJ for Entity Moving Parties	Omnibus MSJ for Individual Moving Parties
Opening Brief	50 pages	40 pages
Opposition Brief	50 pages	40 pages
Reply Brief	35 pages	30 pages
Separate Statement	105 pages (representing 15 pages per moving party consistent with the Court's Standing Order)	60 pages (representing 15 pages per moving party consistent with the Court's Standing Order)
Responsive Separate Statement	Adds no more than 35 pages (consistent with the Court's Standing Order that the Responsive Separate Statement add no more than 5 pages)	Adds no more than 20 pages (consistent with the Court's Standing Order that the Responsive Separate Statement add no more than 5 pages)

Proposal 2:

In the alternative, Defendants would be allowed to file a single omnibus MSJ as to all eleven moving parties (both entities and individuals), with the following page lengths:

	Single Omnibus MSJ for all Moving Parties
Opening Brief	75 pages
Opposition Brief	75 pages
Reply Brief	45 pages
Separate Statement	165 pages (representing 15 pages per moving party consistent with the Court's Standing Order)
Responsive Separate Statement	Adds no more than 35 pages (consistent with the Court's Standing Order that the Responsive Separate Statement add no more than 5 pages)

C. Defendants' Proposal for Briefing Schedule and Trial Setting Conference²

Defendants submit the following proposal for a dispositive motion and Daubert motion briefing

² Because DPPs will have additional time to review and respond to Defendants' already-noticed MSJ arguments, Defendants should receive equal additional time to respond to DPPs' Daubert motions that were originally subjected to the same Court-ordered briefing timelines. *See* ECF No. 664. This proposed schedule thus reflects an equitable extension of time for both parties.

1 schedule, as well as a proposed schedule for the joint trial setting conference statement and trial setting
2 conference:

3 Event	Previous Deadline	New Deadline
4 Defendants' Motion(s) for Summary Judgment	March 7, 2025	April 11, 2025
5 DPPs' Oppositions to Motion(s) for Summary Judgment / 6 Defendants' Oppositions to DPPs' Daubert Motions	April 4, 2025	May 2, 2025
7 Defendants' Reply to Motion(s) for Summary Judgment / 8 DPPs' Replies in support of Daubert Motions	April 25, 2025	May 23, 2025
9 Joint Trial Setting Conference Statement	April 25, 2025	August 29, 2025
10 Trial Setting Conference	May 8, 2025	September 18, 2025

11
12 DATED: March 24, 2025

FROST LLP

13
14 By: 

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20 Technology Co., Ltd., Synta Canada Int'l Enterprises
21 Ltd., SW Technology Corp., Olivon Manufacturing
22 Co. Ltd., Olivon USA, LLC, Nantong Schmidt
23 Optoelectrical Technology Co. Ltd., Pacific Telescope
24 Corp., Corey Lee, David Shen, Sylvia Shen, Jack Chen,
25 Jean Shen, Joseph Lupica, Dave Anderson, Laurence
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